

THE CHAIRMAN: But the point I am trying to get clear is whether your clause in referring to these provisions is not limited to the obtaining of evidence as a result of a search warrant?

DELEGATE BOTHE: That is correct, and that is also true in a criminal case, as I am sure you are aware.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Mr. Chairman and fellow delegates: I had hoped I would not have to rise to speak against this amendment, because I thought it was so clear as to which was the best side of the argument. But since there seems to be some doubt in a good many peoples' minds, I want to register my unalterable opposition to this amendment. When you get into the realm of civil rights, it is completely beyond anything of which I am aware in the whole of jurisprudence at the present time.

When you come to the field of criminal appeals, we have a decision of the Supreme Court which reversed the common law rule of Maryland and of the majority of all the states and the English common law rule in an extremely hard case. It was a five to four decision, and one of the judges, as has been pointed out here, Mr. Justice Black, has since limited the effect of his decision to the facts of that particular case.

Now we are here dealing with a matter of where the rights of the general public are concerned. The idea of a person admittedly guilty going free just because some policeman has exceeded his authority was anathema to the former Supreme Court and to most of the courts in this country.

It is a question which is highly debatable. If the Supreme Court should reverse itself or modify in any degree its extremely, and it is very extreme, controversial decision, it would be unfortunate to have this frozen in our Constitution. I hope we will not do it.

THE CHAIRMAN: Is there any further discussion?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

The Clerk will ring the quorum bell.

The question arises upon the adoption of Amendment No. 7. A vote Aye is a vote in favor of the amendment. A vote No is a vote against.

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 22 votes in the affirmative and 97 in the negative, the motion fails and the amendment is rejected.

Delegate Bothe, do you now desire to offer one of the other amendments?

DELEGATE BOTHE: There is just one.

THE CHAIRMAN: I had H and Q. Q is substantially the same as the one just offered. I assume you do not want to offer that.

DELEGATE BOTHE: What is Q, sir?

THE CHAIRMAN: It leaves out two words that are contained in amendment J. It is the same as Amendment No. 7, except that the words "before any agencies" are omitted.

DELEGATE BOTHE: I think that was a style correction.

I would like to introduce H.

THE CHAIRMAN: The pages will please distribute amendment H, H for Henry.

Delegate Bothe, the Chair had some question about the admissibility of this amendment, because it is very similar to the amendment just offered. I am reserving the final decision pending your explanation.

I assume you will point out the distinction you are trying to make?

DELEGATE BOTHE: I will, and I think the matter can be dealt with very briefly.

THE CHAIRMAN: This will be Amendment No. 8.

The Clerk will read the amendment.

READING CLERK: Amendment No. 8 to Committee Recommendation R&P-1, by Delegate Bothe:

On page 2, section 4, Search and Seizure; Right to Privacy, in line 47 after the period add this new sentence:

"Evidence secured in violation of these provisions shall not be admissible in any court against any person."

THE CHAIRMAN: The amendment is submitted by Delegate Bothe. Is there a second.